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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,191	10/15/2003	Gregory B. Hale	58085-010201	7574

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EXAMINER

HARTMAN JR, RONALD D

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,191

Applicant(s)

HALE ET AL.

Examiner

Ronald D. Hartman Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 19-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. [1] as follows:

The later-filed application must be an application for a patent for an invention that is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed applications, Application No. 09/617,721 which is now U.S. Patent No. 6,889,098 and 09/372,405 which is now U.S. Patent No. 6,173,209, both fail to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application.

The aforementioned applications fail to provide adequate support for the utilization of a cellular telephone for making reservations. It is also noted that upon textually searching both previously filed applications, "cellular" is never used, "wireless" or "wirelessly" is never used, and "telephone" is never used within the context of the newly filed claims. That is, there is not adequate support for wirelessly, or through the utilization of a cellular telephone, reserving times for an attraction. The only mention of telephone is to allow patrons to call one another, not to make the actual reservations.

Furthermore, the only wireless feature that has support is the utilization of RF (radio frequency) signals that may be used to validate the patron when they are trying to access the attraction at their reserved time. Nowhere do the originally filed specifications disclose utilizing a wireless device, or a cellular telephone, for making the actual reservations and therefore these features appear to represent new matter and are believed to first be presented with respect to the pending application.

That being said, any claims having these features will not be afforded the earlier filing dates of the earlier filed applications, and therefore these claims will be afforded the filing date of the instant application as this is the first time these features were disclosed, the filing date being 10/15/2003. This date is therefore applicable to claims 2, 5 and 20-27. All other claims will be afforded the earlier filing date of 8/10/1999.

Since the applicant has repeatedly argued the validity of the Examiners statements with regards to these points, the Examiner kindly asks the applicant to specifically point out in the originally filed applications where support for these lies rather than to repeatedly deny the Examiner's assertions without showing why the Examiner is incorrect in his observations.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-4, 6-16 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Waytena et al., U.S. Patent No. 5,978,770.

As per claims 1, 4 and 19, Waytena et al. teaches a method comprising:

- permitting a patron to enter a request for an allocation of a space on the attraction including the steps of:
 - i. receiving an input from a patron at a remote location, the input being communicated to a central computer for regulating the load of the attraction (e.g. Figures 1, 2, 3 and 5B – 5E);

- ii. permitting the patron to remotely receive a response about available return times for the attraction (e.g. Figures 1, 2, 3 and 5B – 5E);
; and
- iii. permitting the patron to effect a selection of one of the available return times (e.g. Figures 1, 2, 3 and 5B – 5E);
; and
- providing to the patron access to the attraction in accordance with the selection made by the person (e.g. Figures 1, 2, 3 and 5B – 5E).

As per claims 3 and 6, Waytena et al. teaches multiple attractions (e.g. Figure 5B element 545).

As per claims 7 and 12, Waytena et al. adequately discloses the reservation being redeemed through an essentially automatic procedure comprising the reading of magnetic code (e.g. C9 L21-32).

As per claims 8 and 13, Waytena et al. adequately discloses the redemption of the priority (e.g. the reservation) at the time of entry as this is the very reason by which a patron makes the reservation, that is, to allow the patron the ability to access the attraction at the time reserved, so the very use of the reservation is the functional equivalent of redeeming the reservation.

As per claims 9 and 14, Waytena et al teaches adequately discloses a mix ration being determined with respect to the amount of patrons utilizing both types of queues so that near real time update of availability for further granting of accesses may be computed (e.g. C10 L53 – C11 L17).

As per claims 10 and 15, Waytena et al. adequately discloses a feature wherein an exchange or return of a return time is permitted (e.g. Interpreted to be the functional

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equivalent of allowing a patron to select another time; Figure 5E element 582 or changing a previously made reservation; C18 L12-29).

As per claims 11 and 16, Waytena et al. adequately discloses factoring in the non-use of a reservation (e.g. C21 L56-60).

4. Claims 2, 5, 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Waytena et al., U.S. Patent No. 5,978,770.

As per claims 2, 5, 20 and 22, the rejections of claims 1, 4 and 19, from above, are applied equally herein, and it is noted that in lieu of the comments made in the Priority section above, the effective filing date of claims 2, 5, 20 and 22 becomes 10/15/2003 which has the effect of changing Waytena et al. from a 102(e), as applied to claims 1, 4 and 19 above, to a 102(b) since Waytena et al. issued on 11/2/1999 which was more than one year prior to the effective filing date of claims 2, 5, 20 and 22, that being 10/15/2003.

Furthermore, as per claims 2, 5, 20 and 22, Waytena et al. teaches an input being made from a wireless device (e.g. Figure 1 element 102 and C2 L46-57).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 21 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waytena et al., as applied to claims 1 and 4 above, in view of Croughwell et al., U.S. Patent No. 5,966,654.

As per claims 21 and 23-27, although Waytena et al. teaches that a cellular communications network may be utilized (e.g. C6 L37), Waytena et al. does not specifically teach the PCD's being cellular telephones.

Croughwell et al. teaches a cellular telephone being utilized to schedule reservations for attraction located at a theme park (e.g. Title, Figure 16 and claims 1-12).

It is noted that the applicant has asserted that Croughwell et al does not teach a "keying" operation as Croughwell discloses a voice automated operating service as well as a human operator for accepting the reservations made by the patron. It is the Examiner's opinion that these two input methodologies are functionally equivalent since they both are recognized as well known user prompting methods, that is, they both allow the patron to input information into the cellular telephone so that a reservation for an attraction may be made. Therefore, since both manually inputting information into the cellular telephone and voice inputting information into the cellular telephone are functional equivalent of inputting information into the cellular telephone, they are viewed to be, at the very least, obvious variations of one another, and therefore the inclusion of a keying operation is an obvious variation of the utilization of a cellular telephone, especially in light of Croughwell et al's disclosure of the cellular telephone keypad (e.g. See Croughwell et al., C8 L16-19) for inputting commands into the cellular telephone.

Therefore, it would have been obvious to incorporate Croughwell et al. into Waytena et al for the purpose of allowing a simple, wireless means by which reservations for the attractions may be made while the patron is in a location remote from the attractions utilizing any number of communications networks, including a cellular telephone network as described by Waytena et al.

Conclusion


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (571) 272-3684. The examiner can normally be reached on Mon.-Fri., 11:00 - 8:30 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald D Hartman Jr.
Patent Examiner
Art Unit 2121

January 2, 2006

xrbh

Anthony Knight
Supervisory Patent Examiner
Group 3600